

WHITNEY LEON

NUMBER: 40165 DIV.: 1

VERSUS

DAVID RAINES COMMUNITY
HEALTH CENTER, INC., DR. BENJAMIN
BAUMGARDNER, KEN BAILEY,
SHERIFF OF CLAIBORNE PARISH,
CLAIBORNE PARISH DETENTION
CENTER AND JOHNNY SUMLIN, WARDEN
OF CLAIBORNE DETENTION CENTER

2ND JUDICIAL DISTRICT COURT

PARISH OF CLAIBORNE

STATE OF LOUISIANA

PETITION FOR DAMAGES

The petition of WHITNEY LEON, a citizen of the State of Louisiana, with respect,
represents:

1.

Made defendants herein are the following:

- a. DAVID RAINES COMMUNITY HEALTH CENTER, INC., upon information and belief, a health care facility rendering and/or providing healthcare services in the Parish of Claiborne at the time of the alleged malpractice.
- b. DR. BENJAMIN BAUMGARDNER, upon information and belief, a person of the full age of majority, rendering healthcare services in the Parish of Claiborne at the time of the alleged malpractice.
- c. KEN BAILEY, SHERIFF OF CLAIBORNE PARISH AND/OR d/b/a CLAIBORNE PARISH DETENTION CENTER, the individual and/or entity charged with maintenance and control of the Claiborne Parish Detention Center and the safety and wellbeing of prisoners housed therein, with his principal place of business in Homer, Louisiana, Parish of Claiborne.
- d. JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, the individual charged with maintenance and control of the Claiborne Parish Detention Center and the safety and wellbeing of prisoners housed therein, with his principal place of business in Homer, Louisiana, Parish of Claiborne.

2.

Defendants, DAVID RAINES COMMUNITY HEALTH CENTER, INC., DR. BENJAMIN BAUMGARDNER, KEN BAILEY, SHERIFF OF CLAIBORNE PARISH AND/OR d/b/a CLAIBORNE PARISH DETENTION CENTER and JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, are justly and truly indebted to petitioner,

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SHANNON T. ZACHARY
DEPUTY CLERK
CLAIBORNE PARISH, LA

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WHITNEY LEON, in a sum reasonable in the premises, for the following, to wit:

3.

At all times pertinent hereto, petitioner, WHITNEY LEON, was incarcerated as an inmate at the Claiborne Parish Detention Center.

4.

On information and belief, on or about April 1, 2013, claimant, was examined by Dr. Benjamin Baumgardner at David Raines Community Health Center and had two teeth extracted from his mouth due to abscess.

5.

On or about April 9, 2013, claimant, Mr. Whitney Leon, at approximately 11:41 a.m., was admitted to EA Conway Medical Center in Monroe, LA, examined by Dr. Lawrence C. Hill, with complaints of high fever and altered mental status and appearing toxic. Claimant was transferred to LSU Health Sciences Center-Shreveport Neurosurgery and upon arrival admitted by Dr. Christopher Storey, at approximately 7:24 p.m., an MRI of the head confirmed that claimant had a subdural empyema and was immediately rush-rolled to the operating room for an emergent craniotomy for evacuation of the subdural abscess.

6.

On or about April 11, 2013, claimant was admitted to the ARK-LA-TEX Regional Epilepsy Monitoring Unit for twenty-four (24) hour video monitoring due to fever, change in mental status and CT revealed 5mm left extra-axial fluid collection concerning for empyema or hematoma. Claimant was examined/monitored by Dr. Robert N. Schwendimann. Claimant had periodic epileptiform discharges on the left that initiated electrographic seizure activity primarily involving the left cerebral hemisphere but also spreading to the right.

7.

On or about April 17, 2013, claimant was discharged from LSU Shreveport by Dr. Jared R. Garrett.

Claimant returned to EA Conway Medical Center and was examined by Dr. Donald Newton Givier with complaints of fever, headache and facial weakness. Claimant was treated with six (6) weeks of IV antibiotics and was discharged on May 15, 2013 in stable condition.

8.

On or about April 18, 2013, claimant, Whitney Leon, started physical therapy with

Mouhamed Badji, PT, to improve his strength, gait and balance. Claimant was discharged from physical therapy on or about April 22, 2013, however, he would continue occupational therapy to help with daily living activities.

9.

On or about June 9, 2013, claimant returned to LSU Health Sciences Center-Shreveport with left temporal pain (headache). No mass or mass effect or hemorrhages were found.

10.

On information and belief, petitioner filed an ARP on July 30, 2013, less than 90 days from being released from the infirmary after brain surgery, regarding the incident. On August 19, 2013, the Department of Public Safety and Corrections forwarded the complaint to Claiborne Parish Detention Center for disposition. On information and belief, no rejection letter was ever sent.

11.

Petitioner alleges that defendants, DAVID RAINES COMMUNITY HEALTH CENTER, INC. and DR. BENJAMIN BAUMGARDNER were negligent and failed to perform the following:

- a. Failing to perform a proper and/or timely examination;
- b. Failing to properly diagnose claimant's condition;
- c. Failing to properly care and treat the patient;
- d. Failing to properly and/or timely order appropriate tests and treatment;
- e. Failing to properly/timely document patient's condition;
- f. Failing to properly/adequately monitor the patient's postoperative condition for signs of infection;
- g. Failing to perform a proper physical exam; and
- h. Failing to provide care in accordance with the proper established standard of care.

12.

Petitioner alleges that defendant, KEN BAILEY, SHERIFF OF CLAIBORNE PARISH d/b/a CLAIBORNE PARISH DETENTION CENTER and JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, through its deputies and employees at the Claiborne Parish Detention Center, were negligent in failing to either immediately transport petitioner, WHITNEY LEON, to a hospital or a physician's office, or timely call a medic or physician to the prison to evaluate petitioner, who was requesting immediate medical attention.

13.

Defendant, KEN BAILEY, SHERIFF OF CLAIBORNE PARISH d/b/a CLAIBORNE PARISH DETENTION CENTER and JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, through its agents, servants, or employees, was further negligent in failing to have petitioner, WHITNEY LEON, evaluated by a physician or at least a nurse in a clinical setting, failing to have vital signs taken, failing to assess petitioner because of the represented clinical signs and symptoms, and in failing to provide immediate medical care as a result of these signs and symptoms.

14.

As a direct and proximate result of the negligence of defendants, DAVID RAINES COMMUNITY HEALTH CENTER, INC., DR. BENJAMIN BAUMGARDNER, KEN BAILEY, SHERIFF OF CLAIBORNE PARISH and/or d/b/a CLAIBORNE PARISH DETENTION CENTER and JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, through their agents, servants, or employees, individually and/or collectively petitioner, WHITNEY LEON, sustained serious personal injuries, including, but not limited to, a brain abscess, which ultimately resulted in brain surgery, all requiring medical treatment and permanent neurological deficits.

15.

As a direct and proximate result of the injuries sustained by petitioner, WHITNEY LEON, from defendants' negligence beginning on or about April 1, 2013, petitioner, WHITNEY LEON, has sustained the following damages, past and future, for which he is entitled to a sum reasonable in the premises.

- a) Past and future physical pain and suffering;
- b) Past and future mental anguish and emotional distress;
- c) Inconvenience and loss of enjoyment of life;
- e) Medical and related expenses;
- f) Loss of function;
- g) Loss of chance of a better outcome;
- h) Permanent scarring and disfigurement; and,
- i) Loss of earning capacity.

WHEREFORE, petitioner, WHITNEY LEON, prays that defendants, DAVID RAINES COMMUNITY HEALTH CENTER, INC., DR. BENJAMIN BAUMGARDNER, KEN BAILEY, SHERIFF OF CLAIBORNE PARISH and/or d/b/a CLAIBORNE PARISH DETENTION CENTER and JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, be served with a copy of this petition and be required to answer same within the delays

provided by law, that, after the expiration of all legal delays and due proceedings had, there be judgment rendered herein in favor of petitioner, WHITNEY LEON, and against defendants, DAVID RAINES COMMUNITY HEALTH CENTER, INC., DR. BENJAMIN BAUMGARDNER, KEN BAILEY, SHERIFF OF CLAIBORNE PARISH and/or d/b/a CLAIBORNE PARISH DETENTION CENTER and JOHNNY SUMLIN, WARDEN OF CLAIBORNE PARISH DETENTION CENTER, for a sum reasonable in the premises, together with legal interest thereon from date of judicial demand until paid, for all costs of these proceedings, and for all general and equitable relief.

RESPECTFULLY SUBMITTED:



Sarah Norwood Trouard
Attorney at Law
7918 Wrenwood Boulevard, Suite A
Baton Rouge, LA 70809
225/927-7035
LD. #30313

PLEASE SERVE:

David Raines Community Health Center
Through their registered agent for service of process:
Willie C. White, III
3041 Martin Luther King Jr. Drive
Shreveport, LA 71107

Dr. Benjamin Baumgardner
1953 East Main Street
Haynesville, LA 71038

Johnny Sumlin, Warden of Claiborne Parish Detention Center
1415 Hwy. 520
Homer, LA 71040

And

Ken Bailey, Sheriff of Claiborne Parish d/b/a
Claiborne Parish Detention Center
613 East Main
Homer, LA 71040

State of Louisiana,

Parish of Claiborne

I hereby certify that the above and foregoing is a true,
correct and complete copy of the original on file in my office.

Given officially this APR 02 2014

JAMES PATRICK CLARKE, Clerk of Court
Claiborne Parish, Louisiana

By 
SHANNON T. ZACHARY
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

Whitney Leon,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
David Raines Community Health Center,)	
Inc., Dr. Benjamin Baumgardner,)	
Ken Bailey,)	
Sheriff of Claiborne Parish,)	
Claiborne Parish Detention Center and)	
Johnny Sumlin,)	
Warden of Claiborne Detention Center,)	
)	
Defendants.)	
)	

DECLARATION OF
MEREDITH TORRES

1. I am a Senior Attorney in the General Law Division, Office of the General Counsel, Department of Health and Human Services (the "Department"). I am familiar with the official records of administrative tort claims maintained by the Department as well as with the system by which those records are maintained.

2. The Department has a Claims Branch that maintains in a computerized database a record of administrative tort claims filed with the Department, including those filed with respect to federally supported health centers that have been deemed to be eligible for Federal Tort Claims Act malpractice coverage.

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3. As a consequence, if a tort claim had been filed with the Department with respect to David Raines Community Health Center, its approved delivery sites, or its employees or qualified contractors, a record of that filing would be maintained in the Claims Branch's database.

4. I caused a search of the Claims Branch's database to be conducted and found no record of an administrative tort claim filed by Whitney Leon, or an authorized representative relating to David Raines Community Health Center or Benjamin Bumgardner, M.D.

5. I have also reviewed official agency records and determined that David Raines Community Health Center was deemed eligible for Federal Tort Claims Act malpractice coverage effective January 1, 2012, and that its coverage has continued without interruption since that time. The Secretary of Health and Human Services' authority to deem entities as Public Health Service employees under 42 U.S.C. § 233(g) has been delegated to the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration. Copies of the notifications by the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration, Department of Health and Human Services, to David Raines Community Health Center are attached to this declaration as Exhibit 1.

6. Official agency records further indicate that Benjamin Bumgardner, M.D., was an employee of David Raines Community Health Center at all times relevant to the complaint in this case.

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I declare under penalty of perjury that the foregoing is true and correct. 28

U.S.C. § 1746.

Dated at Washington, D.C., this 22nd day of July, 2014.



MEREDITH TORRES

Senior Attorney, Claims and Employment Law Branch
General Law Division
Office of the General Counsel
Department of Health and Human Services